

IN THE MATTER OF RCN TELECOM )  
SERVICES, INC.'S FILING OF FCC FORM )  
1240, AN ANNUAL UPDATING OF THE )  
MAXIMUM PERMITTED RATE FOR )  
REGULATED CABLE SERVICES AND IN )  
CONNECTION THEREWITH, FORM 1205 )  
DETERMINING REGULATED INSTAL- )  
LATION AND EQUIPMENT COSTS )  
USING THE OPTIONAL EXPEDITED )  
RATE PROCEDURES )

CABLE TELEVISION

STATE OF NEW JERSEY  
BOARD OF PUBLIC UTILITIES  
BPU DOCKET NUMBER CR01010060  
CR01010061

STIPULATION OF FINAL RATES

The undersigned parties, as a result of a review of the FCC Forms 1240 and 1205 as well as the timely filed public comments in these matters hereby stipulate to the following findings of fact and conclusions of law for consideration by the Board of Public Utilities ("Board"); and

As part of the Optional Expedited Rate Procedures (Approved January 12, 1996, Docket No. CX95120636), RCN Telecom Services, Inc. ("Petitioner") agreed to waive the Company's litigation rights at the Office of Administrative Law ("OAL") in these proceedings. It should be noted that Petitioner's waiver was a knowing, voluntary and intelligent waiver of its litigation rights at the OAL and that the waiver did not constitute a circumvention of the Federal Communications Commission ("FCC") rules nor did it affect the Company's right to appeal in that forum.

WHEREAS, the Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, 106 Stat. 1460 (1992), codified at 47 U.S.C. § 543 et seq., (the "Federal Act"), classified the delivery of cable television services into two separate rate regulated categories: (i) "basic service" (consisting primarily of "off-the-air" and public educational and governmental channels) and associated equipment and installation and (ii) cable programming services ("CPS") and associated equipment; and

WHEREAS, under the Federal Act, basic service is regulated by the "franchising authority," and

WHEREAS, under the provisions of the New Jersey Cable Television Act ("New Jersey Act"), N.J.S.A. 48:5A-1 et seq., the franchising authority is the Board; and

WHEREAS, the Federal Act required the FCC to issue regulations governing the standards to be used by franchising authorities in regulating basic service rates; and

WHEREAS, under the regulations adopted March 30, 1994, 47 C.F.R. § 76.900 et seq., a cable operator may adjust its rates by electing the annual rate adjustment system under the regulations adopted September 15, 1995 (47 C.F.R. § 76.922) by filing a Form 1240 and a Form 1205 on the same date; and

WHEREAS, on January 25, 2001, Petitioner, serving subscribers within the Townships of Bedminster, Bethlehem, Branchburg, Chatham, Chester, Clinton, Delaware, East Amwell, Franklin

(Hunterdon), Franklin (Somerset), Harding, Hillsborough, Mendham, Montgomery, Long Hill, Raritan, Readington, Tewksbury and Union, the Boroughs of Bernardsville, Chester, Flemington, Lebanon, Mendham, Millstone, Peapack-Gladstone and Rocky Hill, Far Hills (Morris) and the Town of Clinton filed Form 1240, Docket No. CR01010060 with the Board seeking approval of inflation and programming adjustments for a total increase in the Maximum Permitted Rate ("MPR") of .8% for the period from April 26, 2001 to April 25, 2002, for an increase in the MPR from \$14.81 to \$14.93, exclusive of franchise fees, which would result in a total increase of the MPR for basic service of \$ .12 per month; and

WHEREAS, on the same date, Petitioner filed Form 1205, Docket Number CR01010061, with the Board, seeking approval of its regulated installation and equipment rates listed on the attached Schedule A. The rates reflected on this schedule are the same rates approved by the Board in Docket Number CR95040159. The Petitioner has chosen not to increase its rates for the time period from April 26, 2001 to April 25, 2002. However, the FCC requires that a Form 1205 be filed with the Form 1240 (47 C.F.R. § 76.922) and the Petitioner has met this requirement; and

WHEREAS, the parties upon review of the FCC Forms 1240 and 1205, supporting documentation and schedules thereto agree that the proposed rates are just and reasonable; and

WHEREAS, the Staff, the Ratepayer Advocate and Petitioner have engaged in discussions of this matter; and

WHEREAS, the Staff, the Ratepayer Advocate and Petitioner have concluded that the Company is entitled to the above-referenced adjustment of the MPR which it seeks in its FCC 1240 filing and that the present installation and equipment rates will remain unchanged.

NOW, THEREFORE, Staff, the Ratepayer Advocate, and Petitioner hereby STIPULATE AS FOLLOWS:

1. Petitioner notified its customers of the proposed rate increase in the MPR via a newspaper announcement and has informed them of their opportunity to submit written comments for a period of thirty (30) days.
2. The effective date for the increase in the MPR for basic service due to inflation and programming costs under Docket Number CR01010060 was April 26, 2001. As stated above, the installation and equipment rates will not change under Docket Number CR01010061.
3. The stipulated rate increase in the MPR for the basic service tier shall be subject to the approval of the Board and all revenues collected as a result of this adjustment shall be subject to refund, pursuant to the rules and regulations of the FCC as well as those of the Board if the Board finds this rate increase in the MPR for the basic service tier to be unjustified in whole or in part or in any way implemented improperly.
4. This Stipulation of Settlement resolves all issues raised by the filings which are the subject of the within matters.

5. The signatories agree that, except as expressly provided herein, this Stipulation has been made exclusively for the purpose of these proceedings and that the Stipulation contained herein, in total or by specific items, is in no way binding upon the parties in other proceedings before the Board or in other forums or jurisdictions, nor are the contents of this Stipulation, in total or by specific items, by inference, inclusion, or deletion, in any way to be considered or used by another party as any indication of the position of any party hereto on any issue litigated or to be litigated in other proceedings.

This Stipulation contains terms, each of which is interdependent with the others and essential in its own right to the signing of this Stipulation. Each term is vital to the agreement as a whole, since the parties expressly and jointly state that they would not have signed the agreement had any term been modified in any way. Each party is entitled to certain procedures in the event that any modification is made to the terms of this Stipulation, the signatory parties each must be given the right to be placed in the position it was in before the Stipulation was entered. Therefore, if any modification is made to the terms of this Stipulation, it is essential that each party be given the option, before the implementation of any new rate resulting from this action, either to modify its own position to accept the proposed changes, or to resume the proceeding as if no agreement had been reached.

The parties believe these provisions are fair to all concerned and therefore, they are made an integral and essential element of this Stipulation. This being the case, all parties expressly agree to support the right of any other party to this Stipulation to enforce all terms and procedures detailed herein.

**GLORIA J. FURLONG,  
OFFICE OF CABLE TELEVISION**

DATED:

By: \_\_\_\_\_  
Supervising Administrative Analyst

**BLOSSOM A. PERETZ, DIRECTOR  
DIVISION OF THE RATEPAYER  
ADVOCATE**

DATED:

By: \_\_\_\_\_  
Elana Shapochnikov, Esq.  
Assistant Deputy Ratepayer Advocate

**RCN TELECOM SERVICES, INC.**

DATED:

By: \_\_\_\_\_  
Deborah Greco  
Manager - Regulatory

## **SCHEDULE A**

<u>Services</u>	<u>Actual Rates*</u>
Installation-Standard Never Wired	\$50.00
Installation-Previously Wired Home	\$30.00
Installation-Additional Outlet-Original Trip	\$15.62
Installation-Additional Outlet-Separate Trip	\$20.94
Installation- Wallfish (Half Hour)	\$15.62
Repair Drop Cable Cut by Customer, Landscaper, Etc.	\$20.94
Transfer or Reconnection of Service	\$30.00
Hourly Service Charge	\$31.24
Converter Box-Addressable (Includes Remote)	\$ 2.00

\*Rates approved 3/13/97--Company chose not to increase in this filing